

ZONING ORDINANCE AMENDMENTS STUDIES:

NORTH SHATTUCK AND ELMWOOD COMMERCIAL AREAS

FINAL REPORT

Prepared for the City of Berkeley

by

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INTRODUCTION

This report contains proposed zoning regulations for two Berkeley business districts. The new regulations are written for incorporation in the current Berkeley Zoning Ordinance, so a reader who wishes to follow all of the references will need to refer to a copy of that ordinance. A reader who wishes only to review proposed changes will find a summary comparison with existing regulations in the "Comments" column opposite the proposed text.

The issues and studies leading to the proposals are described in Working Paper #1, February 10, 1982, and Working Paper #2, April 5, 1982, and are not repeated here.

Proposals other than zoning text revisions for meeting the two districts' development problems are briefly described, and survey data not previously published are included in Appendix D.

Revisions to the May 14, 1982 draft are indicated by bold asterisks and are based on points raised at public meetings in the North Shattuck area on June 3, the Elmwood area on June 10, and with the City Planning Commission on June 16, as well as the authors' further study. The Elmwood Commercial Zoning Ordinance proposed by the Elmwood Preservation Alliance (June 7, 1982) and the North Shattuck Area Plan prepared by the North Shattuck Area Plan Committee (June 16, 1982) were presented at these meetings.

The following information is being furnished to you for your information only. It is not to be used for any other purpose. It is not to be distributed outside your agency. It is not to be used for any other purpose. It is not to be distributed outside your agency. It is not to be used for any other purpose. It is not to be distributed outside your agency.

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SUMMARY OF PROPOSED REVISIONS TO NORTH SHATTUCK AND ELMWOOD ZONING REGULATIONS

Proposal. Create a C-1A1 district for North Shattuck and a C-1B1 district for Elmwood.

Purposes. Add to C-1A and C-1B district purposes (a), (b), and (c):

- (d) To limit the space occupied by certain types of businesses that generate high traffic volumes and businesses that might, if not limited, expand to displace businesses needed to serve surrounding neighborhoods.
- (e) To prevent development of commercial space exceeding the amount and intensity of use that can be served by available traffic capacity and existing and potential parking supply.
- (f) To ensure that new additional commercial development is accompanied by residential development sufficient to accommodate the net increase in workforce.
- * (g) To encourage businesses having moderate rent-paying capability that provide needed household repair services.*
- (h) To ensure that new buildings, alterations, and additions to existing buildings harmonize with their surroundings.

Permitted uses. All uses existing in North Shattuck or Elmwood except: hotel, automotive service, theater, phone center store, supermarket, animal care, plumbing shops, testing laboratories, medical and dental offices and laboratories, and governmental offices.

Conditional uses. (Use Permit required.) Animal care establishments; cleaning/dyeing, with on-site processing; commercial recreation; food preparation for off-premises resale, catering; manufacturing or wholesaling incidental to a permitted use; motion picture theaters (Elmwood only); offices, government, subject to Sec. 9B1.5(d); and pet stores, *physical fitness establishments,* service stations, and supermarkets (North Shattuck only).

Use quotas. (Maximum floor area or frontage.)

North Shattuck:

Banks and savings and loans: no increase.

Eating and drinking: 50 percent maximum increase in floor area.

Other offices except travel: 76-foot increase in frontage; no floor area quota.

Elmwood:

Banks and savings and loans: 40 percent increase in floor area.

Eating and drinking: 50 percent increase in floor area.

Other offices except travel: 28-foot increase in frontage; no floor area quota.

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Uses required with new or converted commercial floor space.

Residential floor area equal to 75 percent or more of new or converted commercial floor area.

In projects exceeding 6,000 square feet of commercial floor area, 10 percent of space to be offered for establishments providing repair of personal or household items at 50 percent rental subsidy.

Maximum floor area per commercial establishment. North Shattuck: 4,000 square feet (2,500 square feet for restaurants); Elmwood: 2,500 square feet.

Maximum commercial floor area per site. The length of longest single lot line abutting a street times 80 feet, but not exceeding 80 percent of lot area on an interior lot or 100 percent of lot area on a corner lot.

Maximum number of retail and service establishments per site. Equal to the length of the longest lot line adjoining a main shopping street divided by 15 plus the length of another lot line adjoining a street divided by 30.

Minimum building height. Two stories.

Maximum building height. North Shattuck: 3 stories, not exceeding 35 feet, or 4 stories, not exceeding 40 feet, if the 4th story is set back from the street. Elmwood: 3 stories, not exceeding 28 feet.

Rear yard. Preserve 45-degree sun angle from a height of 6 feet at rear property line adjoining an "R" district.

Parking. Retain all existing off-street parking. North Shattuck: add 2.5 spaces per 1,000 square feet new commercial floor area on-site, if feasible; otherwise require waiver of assessment district protest and in-lieu payments on sliding scale ranging from 10 percent of estimated cost of providing parking space for 400 square feet to 100 percent of cost for 5,500 square feet added or converted. Elmwood: add 1.75 spaces per 1,000 square feet commercial floor area on-site, if feasible; or Design Review Committee may waive requirement for addition or conversion of less than 6,000 square feet.

Bike spaces to equal 30 percent of car spaces.

Parking for residential units: One space per unit required on-site where accessible without undue disruption of pedestrian frontage; alternatively in North Shattuck, assessment to be paid to parking district equal to cost of a residential parking space.

***Neighborhood Review.** Development proposals requiring ordinance amendment, Use Permit, Variance, or Design Review to be submitted to designated neighborhood organization prior to public hearing.*

Design Review. Design Review Committee, appointed by City Council, to approve all new structures and alterations (including colors and signs) affecting exterior appearance.

The proposed rule is subject to public comment.

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Proposals other than zoning text revisions.

- Reclassify parcels or portions of parcels not in commercial use and adjoining "R" districts to an "R" district (North Shattuck).
- Parking assessment district (North Shattuck).
- Neighborhood preferential parking programs (both districts).
- Historic preservation district (Elmwood).

PROPOSED ZONING REGULATIONS FOR THE NORTH SHATTUCK BUSINESS DISTRICT

Comments

CHAPTER 9A1

REGULATIONS FOR THE C-1A1 DISTRICT

9A1.0. APPLICABILITY OF REGULATIONS FOR THE C-1A1 DISTRICT

Standard format.

The following regulations shall apply to the North Shattuck Commercial District, hereinafter called "C-1A1," and shall be subject to the provisions of Chapter 15, provided that where conflicts exist, the provisions of this chapter shall take precedence over Chapter 15.

9A1.1. PURPOSES

No change from C-1A district for (a), (b), and (c).

- (a) To provide locations for retail goods and services to serve surrounding neighborhoods.
- (b) To provide locations for other activities compatible with these commercial activities.
- (c) To promote compatibility between such commercial areas and adjacent residential areas.
- (d) To limit the space occupied by certain types of businesses that generate high traffic volumes and businesses that might, if not limited, expand to displace businesses needed to serve surrounding neighborhoods.
- (e) To prevent development of commercial space exceeding the amount and intensity of use that can be served by available traffic capacity and existing and potential parking supply.
- (f) To ensure that new additional commercial development is accompanied by residential development sufficient to accommodate the net increase in workforce.

Reasons for limiting the amount of space occupied by banks, savings and loans, restaurants, and offices and for limiting the amount of floor area occupied by each business.

Reason for limiting the amount of commercial floor area and the number of establishments on each parcel.

Reason for requiring construction of residential units.



Comments

*Reason for inclusionary regulations.

(g) To encourage businesses having moderate rent-paying capability that provide needed household repair services.*

Reason for Design Review.

(h) To ensure that new buildings, alterations, and additions to existing buildings harmonize with their surroundings.

9A1.2. USES PERMITTED

(a) Residential uses subject to the yard and usable open space requirements of Sec. 9A1.3, the height limitations of Sec. 9A1.8, and the parking requirements of Sec. 9A1.14.

(b) Joint living and work quarters subject to the maximum commercial floor area limitations of Sec. 9A1.6.

(c) Off-street parking, subject to approval of access *and design* by the Design Review Committee.

Status in the Current C-1A District*

(d) Retail Sales or Services:

	C	alcoholic beverages (off-sale) other than beer and wine, subject to Sec. 9A1.5(a)
Revised category.	C	antiques
	C	appliances, small, excluding telephone stores
	P	art supplies
New category.	C	arts and crafts
		automated teller machines, subject to Sec. 9A1.5(b)
	P	bakery goods
	C	banks and savings and loan associations, subject to Sec. 9A1.5(b)
	P	beauty and barber shops
	C	bicycles, including bicycle repair
	P	books
	P	cameras and photographic supplies
	P	clothing alterations and custom tailoring

*P = permitted

*C = conditional (Use Permit required)

Comments

	Status in the Current C-1A District	
	P	clothing and accessories
	C	computers and supplies
	P	copy and printing services, not to exceed 1,000 square feet floor area
(Restaurants.)	P	drugs and personal care items
	C	eating and drinking establishments, subject to Secs. 9A1.5(c) and 9A1.5(e)
	P	fabrics and sewing accessories
	P	financial services other than banks and savings and loan associations, subject to Sec. 9A1.5(d)
Revised category.	P	flowers and plants
		food products for home preparation, excluding supermarkets
	C	food products prepared for immediate or home consumption, subject to Sec. 9A1.5(e)
	C	furniture
		garden supplies
	P	gifts
	P	hardware
	P	housewares
New category.	P	insurance services, subject to Sec. 9A1.5(d)
		jewelry, including jewelry repair
	P	laundry and dry cleaning agents
	C	laundry and dry cleaning, self-service, subject to Sec. 9A1.3(h)
	C	merchandise, general
Revised category.	C	musical instruments and materials
		offices, excluding government offices, banks, savings and loan associations, and medical and dental practitioners, subject to Sec. 9A1.5(d)
	C	office supplies
	P	opticians
	P	paints and wallpaper supplies
	P	photography studios
	P	real estate services, subject to Sec. 9A1.5(d)
	P	repair of personal or household items
	P	sporting goods
Revised category.	P	stationery
		stereo equipment, television, radio, phonograph records and tapes, including repair but excluding installation or repair of equip- ment in vehicles
	C	title companies, subject to Sec. 9A1.5(d)
	P	travel agencies

Comments

Status in the Current C-1A District

	P	variety goods
Revised category.	C	wine and beer (off-sale)
Revised category.	C	wine and beer (on-sale), subject to Sec. 9A1.5(a)
		(e) The following uses, subject to applicable use limitations and subject to securing a Use Permit in each case:
	C	animal care establishments
	C	cleaning/dyeing, with on-site processing, subject to Sec. 9A1.5(g)
	C	commercial recreation
New category.		food preparation for off-premises resale; catering
Revised category.		food products, supermarket, subject to Sec. 9A1.5(f)
New category.		manufacturing or wholesaling incidental to a permitted use
		offices, government, subject to Sec. 9A1.5(d)
	C	pet stores
New category.		physical fitness establishments, spas
	C	religious assembly
		service stations

9A1.3. RESIDENTIAL USE REQUIRED

The effect is to require at least one level of residential space over a new ground-floor commercial space. The Use Permit required by Sec. 15.1-1 for elimination of dwelling units could, where applicable, set additional conditions. See Appendix A for analysis of the economic feasibility of mixed-use development.

Gross residential floor area on *each site shall equal or exceed 75 percent of commercial area totaling 1,000 square feet or more constructed or converted from a non-residential use.* Residential space shall be devoted to one-family dwellings, two-family dwellings, or multiple dwellings, including apartment houses, flats, and townhouses, and shall be subject to the following yard and open space requirements:

If the maximum permitted commercial floor area were constructed, approximately 95 residential units would be required. If existing buildings were replaced, the total could be higher

Comments

Provides adequate light and air on lots where no side yard is otherwise required.

- (a) Yards shall be as prescribed in Sec. 9A1.9, provided that a yard adjoining an interior property line shall be 10 feet opposite a required living room window and 5 feet opposite a required window in any other habitable room. Required yards shall extend 6 feet in both directions measured parallel to the window requiring the yard from its centerline and shall extend upward from the window sill. Distances between buildings on the same site shall be as required in the "R-3" district.
- (b) Each dwelling unit shall have usable open space of at least 40 square feet with no dimension less than 6 feet.

9A1.4. AFFORDABLE SPACE FOR HOUSEHOLD REPAIR SERVICES REQUIRED

The intent is to allow neighborhood-serving uses with low rent-paying capability to gain a foothold under "inclusionary regulations" such as some California jurisdictions apply to residential development. The subsidy would result in an overall 5 percent rent reduction in the project for two years and likely would prove beneficial in attracting other tenants and patrons.

The owner of new, added, or converted commercial space exceeding 6,000 square feet on a site shall, prior to initial occupancy of the premises, offer during a period of 60 days or more leases of two years or longer for up to 10 percent of the gross floor area for occupancy by businesses having as their principal source of income on-premises repair of shoes, small household appliances, jewelry, bicycles, or clothing alterations at a rent per square foot not exceeding 50 percent of the average base rental obtained or sought for all other rental space on the site. Such leases may contain provisions allowing total rent per square foot to rise to the average for the site after one year if sales volume per square foot equals or exceeds the average for the site.

9A1.5. USE LIMITATIONS

Excludes liquor stores; limits liquor sales except beer and wine to super-markets.

- (a) Alcoholic beverages (off-sale) other than beer and wine shall be sold only in establishments that have as their principal business the sale of food products including a broad selection of fresh meat and fresh produce.

Comments

Excludes additional banks and savings and loans.

Limits total eating and drinking space to 150 percent of current occupancy.

Limits offices to 76-foot increase in frontage occupied; does not limit floor area separately from total commercial floor area.

Restaurants, food stands, and food sales for immediate consumption (including portions of establishments devoted to these activities) are combined to simplify regulation.

Current Use Permit condition for restaurants.

(b) Gross floor area in the C-1A1 district occupied by banks and savings and loan associations, including accessory offices, shall not exceed 19,390 square feet. The area as of March 1, 1982 is found to be 19,390 square feet. Automated banking machines may operate at any hour and shall not be deemed to occupy floor area, but shall be more than 100 feet from an "R" district, measured along street property lines.

(c) Gross floor area in the C-1A1 district occupied by establishments and portions of establishments that provide seating for eating and drinking patrons, including kitchen, storage, restroom, and other accessory space, shall not exceed 42,000 square feet. The area as of March 1, 1982 is determined to be 28,000 square feet.

(d) Total ground-floor street frontage in the C-1A1 district within 20 feet of a street property line occupied by offices other than banks, savings and loans, and travel agencies shall not exceed 500 lineal feet. The base frontage as of March 1, 1982 is determined to be 424 feet.

(e) Eating and drinking establishments and establishments selling food prepared shortly prior to sale for immediate or home consumption (carry-out) shall:

(1) Be more than 200 feet from an "R" district, measured along street property lines.

(2) Have no openings other than fixed windows and required fire exits within 50 feet of an "R" district.

(3) Have no live entertainment *that uses electrically amplified musical instruments.*

Comments

Excludes many fast-foods.

(4) Not have sale of carry-out food to customers who park on-site as their principal business and not provide service to persons who remain in their cars.

Excludes high-volume fast-foods.

(5) Not sell carry-out food in excess of an amount requiring two servers who complete preparation, package or serve, and receive payment.

Extension of current Use Permit standard condition.

(6) Use identifiable containers and napkins for all carry-out food and promptly remove any litter resulting. Agree to retain a contract litter cleanup service on a regular basis if the Zoning Officer finds that a litter problem exists.

Loss of one existing supermarket could result in a proposal for a replacement, so the ordinance should anticipate this possibility.

(f) A Use Permit for a supermarket shall, in addition to the findings in Sec. 20.2, require a finding that additional supermarket space is required to maintain competition and provide needed services, and that adequate parking will be provided. The Use Permit may waive the C-1A1 district requirements for floor area, number of stories, affordable space, and residential floor area.

Prohibits use that belongs in an "M" district.

(g) A Use Permit for a cleaning and/or dyeing establishment with on-site processing other than pressing shall require, in addition to the findings required by Sec. 20.2, prohibition of processing of items received from or picked up by customers at other locations.

Keeps night activity away from "R" districts.

(h) An entrance to a self-service laundry or dry cleaning establishment shall be more than 200 feet from a "R" district, measured along street property lines.

No change.

(i) No business shall begin operation before 7:00 a.m. or continue beyond 10:00 p.m. unless a Use Permit is secured in each case.

No change.

(j) No use shall be permitted in which more than 25 percent of the floor area is devoted to storage unless a Use Permit is secured in each case.

Comments

No change.

*Prohibits drive-up windows.

Limits total commercial floor area. If all parcels with potential for additional space were developed to the maximum, commercial floor area would increase by 26 percent. Currently, 28 percent of developed parcels exceed the standard. See Appendix B for application of standard to existing multi-tenant projects.

Limits large, potentially high-volume businesses. Currently, 4.5 percent of retail and service businesses exceed the standard.

Intent is to limit multi-tenant developments having small units that may substantially exceed average trip generation per square foot in the district. See Appendix B for application of standard to existing multi-tenant projects.

(k) All activities and storage must be carried on within a building unless a Use Permit is secured in each case.

(l) Goods and services shall not be provided to persons who remain in their cars except at service stations.*

9A1.6. MAXIMUM COMMERCIAL FLOOR AREA PER SITE AND PER ESTABLISHMENT

(a) The maximum *commercial floor area on a site,* including storage space, outdoor eating or sales area, and circulation area other than landscaped open space accessible to the public and visible from the street, shall not exceed the length of the longest single lot line abutting a street times 80 feet, provided that the total shall not be greater than 80 percent of the area of an interior lot or 100 percent of the area of a corner lot.

(b) The maximum gross floor area occupied by a business shall be 4,000 square feet, except that the maximum for an eating and drinking establishment shall be 2,500 square feet. A supermarket, defined as a business selling food products including fresh meat and produce, may exceed 4,000 square feet, provided that a Use Permit shall be secured in each case.

9A1.7. MINIMUM FRONTAGE PER ESTABLISHMENT

(a) The maximum number of retail and service establishments permitted on a site shall equal the longest length of lot frontage on Shattuck Avenue or on Vine Street divided by 15 feet plus the length of any other lot line adjoining a street divided by 30 feet. An additional establishment shall be permitted for a fractional number of .50 or more, but shall not be permitted for a fraction of less than .50.

Comments

C-1 limit is 3 stories/
50 feet or 6 stories/75 feet
with Use Permit. Four-
story apartments exist.
C-1A limit is 2 stories/
35 feet or 3 stories/35 feet
if the 3rd story is resi-
dential.

C-1A allows 35-foot build-
ing with 5-foot rear yard.
Revision maintains solar
access. See Figure 1 on
the following page.

C-1A allows 35-foot build-
ing with 5-foot side yard
adjoining an "R" district.
See Figure 1 on the follow-
ing page.

Similar to C-1A.

Eliminates current choice
of 10-foot rear yard as
alternative.

9A1.8. BUILDING HEIGHT: MINIMUM AND MAXIMUM

- (a) Minimum height shall be 2 stories; maximum height shall be 3 stories not exceeding 35 feet, except that a height of 4 stories not exceeding 40 feet measured from the average curb elevation on Shattuck Avenue or Vine Street abutting a lot, shall be permitted if the 4th story is set back 8 feet or more from all street property lines. Any level partially below-grade and devoted exclusively to parking shall not be counted as a story.
- (b) A structure shall not exceed the height of a 45-degree plane sloping inward from a point 6 feet above the existing grade of an adjoining lot in an "R" district, measured along the rear lot line of the lot in the "R" district.
- (c) A structure shall not exceed the height of a 45-degree plane sloping inward from a point 23 feet above the existing grade of an adjoining lot in an "R" district, measured along the side line of the lot in the "R" district adjoining the side yard of the site of the structure.

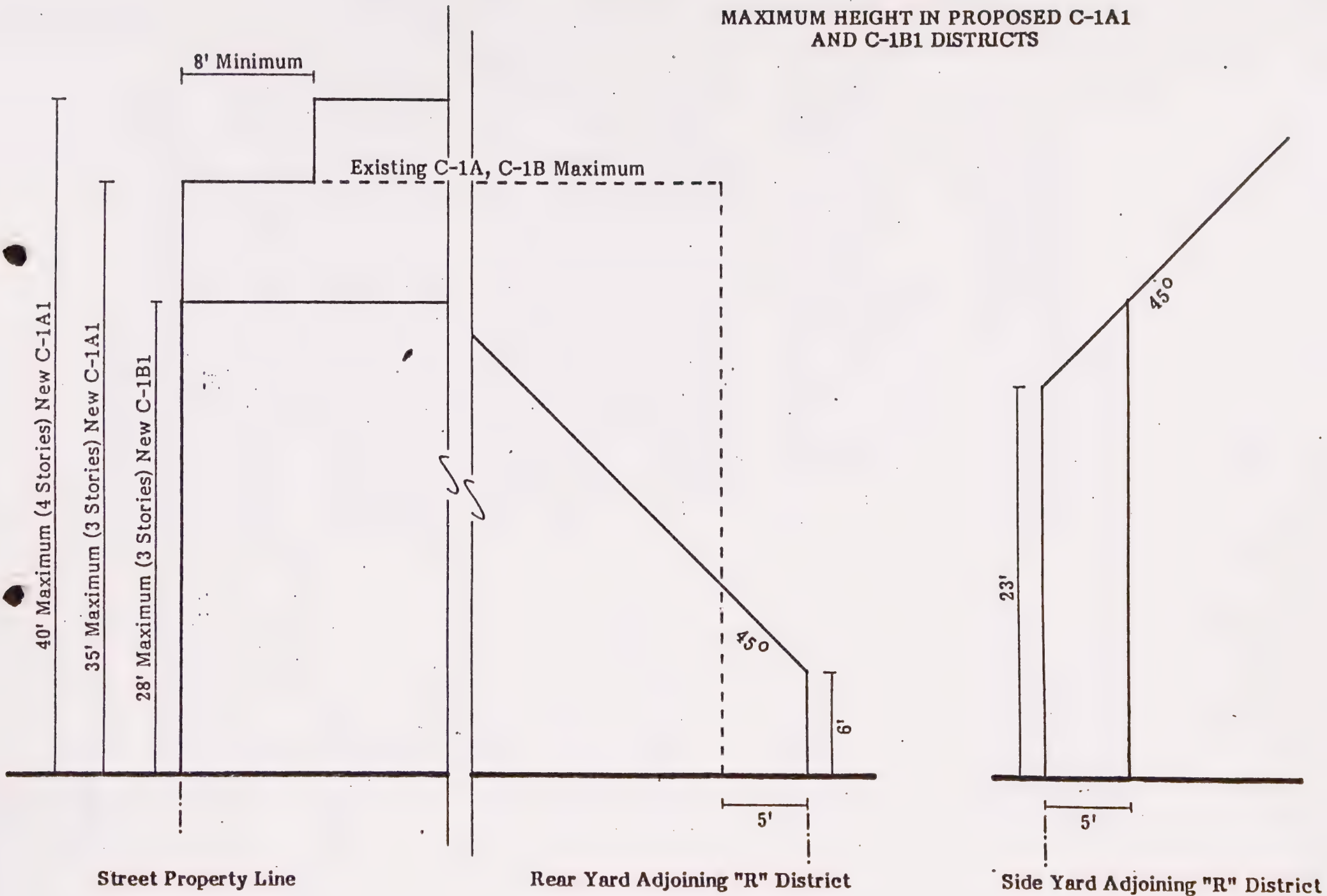
9A1.9. YARDS REQUIRED

No yard shall be required except the following:

- (a) Where the side of a lot abuts an "R" district, the minimum side yard shall be 5 feet.
- (b) Where the rear of a lot abuts an "R" district, the minimum rear yard shall be 5 feet.
- (c) Where the street frontage of a lot is adjacent to an "R" district, the minimum front yard depth or side yard width of the street side adjacent to the "R" district shall be the same as is required for such "R" district.
- (d) Where a lot has frontage on two streets and both frontages are adjacent to "R" districts, the minimum front yard depth and side yard width on the street side adjacent to the "R" district shall be the same as required for the "R" district.

Figure 1

**MAXIMUM HEIGHT IN PROPOSED C-1A1
AND C-1B1 DISTRICTS**



Comments

- (e) The yards specified above may be reduced where it is determined by the Design Review Committee that a lesser required yard would provide greater privacy or improved amenity to property in the "R" district.

9A1.10. SPECIAL CONTROLS ON SITE DEVELOPMENT, BUILDING ORIENTATION, AND EXTERNAL EFFECTS

Similar to C-1A.

The following special requirements shall apply to retail, service, or office space on properties with the same street frontage as and abutting an "R" district or facing directly across the street from an "R" district, unless the Design Review Committee waives such requirements.

Similar to C-1A.

- (a) Display windows and customer entrances other than required exits shall not face a contiguous "R" district.

Similar to C-1A.

- (b) Exterior lighting shall be shielded so as to avoid direct glare in an adjacent "R" district.

Stronger screening requirement than C-1A.

- (c) An adjoining lot in an "R" district shall be screened by a solid wall or fence 6 feet high measured from existing grade at the property line in the "R" district, provided that a higher or lower wall or fence may be required by the Design Review Committee.

Similar to C-1A.

- (d) Mechanical and electrical equipment shall be shielded so that noise levels from such equipment will not exceed 45 decibels (A scale) measured at the property line. Exhaust ducts shall be located or directed away from an abutting "R" district.

9A1.11. ENCROACHMENT

Allows additional space and views for residential space, consistent with existing Victorian buildings. Proposal is consistent with the Uniform Building Code.

Bay windows and balconies 11 feet or more above sidewalk grade may extend 3 feet into a street right-of-way, provided that not more than 60 percent of the length of a building elevation shall extend beyond the property line.

Comments

Helps maintain small scale; avoids two-dimensional facades that frequently are dull.

Prevents possible premature demolition; alerts surrounding area to impending change. *Applications for rehabilitation or conversion will require notice under Design Review provisions.*

9A1.12. AREA OF WALL PLANE

A wall plane parallel or nearly parallel to a street property line shall not contain a rectangle having both length and width greater than 16 feet. The minimum required offset shall be 3 feet perpendicular to the street property line and shall contain an area parallel or nearly parallel to the street having no dimension less than 6 feet. The Design Review Committee may vary this requirement in a manner consistent with the objective of requiring modulated facades in harmonious scale with buildings in the vicinity.

9A1.13. DEMOLITION

A demolition permit for a main structure shall be issued only following issuance of a building permit for improvements that require the demolition, provided that a demolition permit may be issued at any time when required for reasons of public health or safety.

Comments

9A1.14. PARKING

No parking required by C-1A. Proposed ratio is based on assumption that 5 spaces per 1,000 square feet would be needed if all patrons arrived by car. The patron survey found 51 percent using other modes. *The same standard is applied to all uses because it would be impractical to change the number of parking spaces or the assessment for each change of tenancy. Use classifications are not precise indicators of peak parking demand, and even if demand were precisely measured for freestanding businesses, it can be argued that total demand is a function of the districtwide mix of businesses. Meeting demand is essential to all businesses and is a responsibility of the district as a whole. Each establishment has a different parking need and a different revenue per space occupied at the period of peak demand. Limitations on banking and eating and drinking space are intended to prevent severe imbalances.

Under the proposed definitions of "Conversion" (Sec. 22.18-2), the parking requirement would apply to the entire commercial floor area on a site if the number of establishments were increased by more than 50 percent even if the floor area were not increased. The assumption is that intensification of use will increase parking demand.*

- (a) Off-street *automobile* parking at a ratio of 2.5 spaces per 1,000 square feet gross commercial floor area new or converted, plus 1 space per new or converted dwelling unit shall be located on each site, provided that if the Design Review Committee finds it infeasible or inconsistent with Design Review policies to provide the parking, it may approve another location, as prescribed in Section 15.6, or the following provisions shall apply:

Comments

Design Review Committee decisions on location would be based on feasibility of curb cuts without excessive disruption of pedestrian traffic.

The current cash in-lieu payment would be on the order of \$10,000 per space, creating a hardship for small expansions or conversions of commercial space that may have little measurable effect on parking demand. However, setting a single threshold would be inequitable and might create an incentive for projects just below the threshold area.

- (1) An owner not providing parking spaces required to serve commercial floor area shall execute an agreement satisfactory to the City Attorney waiving the right to protest inclusion of the parcel in an off-street parking assessment district, and shall make a cash in-lieu payment to the city for each parking space required but not provided in accord with the following schedule:

<u>Gross Commercial Floor Area Added or Converted for Which Parking is Not Provided (Square Feet)</u>	<u>In-Lieu Payments Required as Percent of Estimated Cost of Parking Required</u>
0-399	No payment
400-999	10 percent
1,000 sq.ft. or more	Add 1 percent for each 50 square feet or major fraction until 100 percent is reached

Comments

If in-lieu fees are to be collected, they should represent the realistic cost of provision of the marginal increase in parking needed, and the city should move promptly to provide the parking. While formation of an assessment district may be the most efficient way, success cannot be assured in advance. If in-lieu fees are clearly insufficient to meet parking need, they become merely a tax on new development instead of a payment for services received. Use of the fees to create more parking between Shattuck Place and Rose or to pay for studies leading to formation of a parking district would be equitable. If transit is to be subsidized in an effort to reduce parking demand, a different and replenishable source should be used.

- (2) The cost of parking shall be determined as of January 1 each year by resolution of the City Council based on the estimated cost of land in the C-1A1 district and the estimated construction cost of a parking space in a three-level structure. In-lieu payments shall be placed in an interest-bearing segregated account and shall be used to increase the number of parking spaces available to the public in the C-1A1 district. If and when assessments are levied for provision of off-street parking in the district, properties from which in-lieu fees have been collected shall receive cash payment of fees paid plus any interest earned. Fees may be spent to increase the number of parking spaces in public rights-of-way or on public property or for any purpose related to formation of a parking assessment district. Fees not encumbered within 5 years of the date paid shall be repaid to the owners of properties for which they were paid, together with any interest earned.

Comments

Most lots on which residential floor area will be developed in conjunction with new commercial floor area will be able to accommodate on-site residential parking. For those that cannot, payment of the full in-lieu fee or the full cost of an assessment district space would be an excessive burden. By requiring that an assessment district provide space at "residential cost," the proposed ordinance is creating the potential for a small but undeterminable subsidy by commercial development. *Residential parking cost is likely to be about half commercial cost, or \$5,000 per space.*

Prevents reduction of present parking supply.

*The patron survey found bicycle trips equaled 30 percent of car driver trips.

- (b) An owner not providing parking spaces required to serve dwelling units shall execute an agreement satisfactory to the City Attorney waiving the right to protest inclusion of the parcel in an off-street parking assessment district and accepting an assessment representing the cost of one residential parking space in adjoining multi-family districts as determined by the Council at the time assessments are levied. The estimated cost of a residential parking space shall be based on the cost of residential land and the cost of constructing an at-grade space in a three-level residential structure.
- (c) Parking provided to serve additional floor area on a site shall be in addition to parking existing on the site, except that the total number of parking spaces need not exceed the number required if all floor area were new or converted.
- (d) Each establishment required to provide automobile parking shall provide one bicycle parking space or bicycle spaces equal to 30 percent of the required automobile parking spaces, whichever is greater. All required bicycle parking shall be on the site of the establishment and shall have provision for locking, provided that two spaces per establishment may be within a public right-of-way but shall not reduce pedestrian traveled way by more than 18 inches.*

Comments

The intent is not to require that all signs be tasteful; but to exclude large, garish signs.

9A1.15. DESIGN REVIEW REQUIRED

All new structures including site improvements and landscape plans; all exterior building alterations visible from a public street; all changes in exterior materials, finishes, or colors; and all exterior signs or signs visible from the exterior and within 3 feet of a window shall be subject to Design Review as prescribed in Chapter 20A, provided that the following shall not be subject to Design Review: non-illuminated signs not exceeding a total of .5 square foot per lineal foot of building frontage *projected to a street property line;* real estate and development signs; and changes of copy on a sign.

PROPOSED ZONING REGULATIONS FOR THE ELMWOOD BUSINESS DISTRICT

Comments

CHAPTER 9B1

REGULATIONS FOR THE C-1B1 DISTRICT

9B1.0. APPLICABILITY OF REGULATIONS FOR THE C-1B1 DISTRICT

Standard format.

The following regulations shall apply to the Elmwood Commercial District, hereinafter called "C-1B1," and shall be subject to the provisions of Chapter 15, provided that where conflicts exist, the provisions of this chapter shall take precedence over Chapter 15.

9B1.1. PURPOSES

Current C-1A purpose.
Proposed regulations do not give priority to all local-serving uses, so current C-1B purpose (a) is inappropriate.

(a) To provide locations for retail goods and services to serve surrounding neighborhoods.

No change from C-1B.

(b) To provide locations for other activities compatible with these commercial activities.

No change from C-1B.

(c) To promote compatibility between such commercial areas and adjacent residential areas.

Reasons for limiting the amount of space occupied by banks, savings and loans, restaurants, and offices and for limiting the amount of floor area occupied by each business.

(d) To limit the space occupied by certain types of businesses that generate high traffic volumes and businesses that might, if not limited, expand to displace businesses needed to serve surrounding neighborhoods.

Reason for limiting the amount of commercial floor area and the number of establishments on each parcel.

(e) To prevent development of commercial space exceeding the amount and intensity of use that can be served by available traffic capacity and existing and potential parking supply.

Comments

Reason for requiring construction of residential units.

*Reason for inclusionary regulations.

Reason for Design Review.

- (f) To ensure that new additional commercial development is accompanied by residential development sufficient to accommodate the net increase in workforce.
- (g) To encourage businesses having moderate rent-paying capability that provide needed household repair services.*
- (h) To ensure that new buildings, alterations, and additions to existing buildings harmonize with their surroundings.

9B1.2. USES PERMITTED

- (a) Residential uses subject to the yard and usable open space requirements of Sec. 9B1.3, the height limitations of Sec. 9B1.8, and the parking requirements of Sec. 9B1.14.
- (b) Joint living and work quarters subject to the maximum commercial floor area limitations of Sec. 9B1.6.
- (c) Off-street parking, only where required by this chapter and approved by the Design Review Committee.

Status in the Current C-1B District*

		(d) <u>Retail Sales or Services:</u>
Revised category.	C	antiques
	C	appliances, small, excluding telephone stores
	P	art supplies
	C	arts and crafts
New category		automated teller machines, subject to Sec. 9B1.5(b)
	P	bakery goods
	C	banks and savings and loan associations, subject to Sec. 9B1.5(b)
	P	beauty and barber shops
	C	bicycles, including bicycle repair

*P = permitted

*C = conditional (Use
Permit required)

CommentsStatus in
the Current
C-1B District

	P	books
	P	cameras and photographic supplies
Revised category.	P	clothing alterations and custom tailoring
	P	clothing and accessories
	C	computers and supplies
	P	copy and printing services, not to exceed 1,000 square feet floor area
(Restaurants.)	P	drugs and personal care items
	C	eating and drinking establishments, subject to Secs. 9B1.5(c) and 9B1.5(e)
	P	fabrics and sewing accessories
	P	financial services other than banks and savings and loan associations, subject to Sec. 9B1.5(d)
	P	flowers and plants
Revised category.		food products for home preparation, excluding supermarkets
	C	food products prepared for immediate or home consumption, subject to Sec. 9B1.5(e)
	C	furniture
	P	gifts
	P	hardware
	P	housewares
	P	insurance services, subject to Sec. 9B1.5(d)
New category.		jewelry, including jewelry repair
	P	laundry and dry cleaning agents
	C	laundry and dry cleaning, self-service, subject to Sec. 9B1.5(g)
	C	merchandise, general
	C	musical instruments and materials
Revised category.		offices, excluding government offices, banks, savings and loan associations, and medical and dental practitioners, subject to Sec. 9B1.5(d)
	C	office supplies
	P	opticians
	P	paints and wallpaper supplies
	P	photography studios
	P	real estate services, subject to Sec. 9B1.5(d)
	P	repair of personal or household items
	P	sporting goods
	P	stationery
Revised category.		stereo equipment, television, radio, phonograph records and tapes, including repair but excluding installation or repair of equipment in vehicles

Comments

Status in the Current C-1B District

	C	title companies, subject to Sec. 9B1.5(d)
	P	travel agencies
	P	variety goods
Revised category.	C	wine and beer (off-sale)
Revised category.	C	wine and beer (on-sale), subject to Sec. 9B1.5(a)
		(e) The following uses, subject to applicable use limitations and subject to securing a Use Permit in each case:
	C	animal care establishments cleaning/dyeing, with on-site processing, subject to Sec. 9B1.5(f)
New category.	C	commercial recreation food preparation for off-premises resale; catering
New category.		manufacturing or wholesaling incidental to a permitted use
	C	motion picture theaters
	C	offices, government, subject to Sec. 9B1.5(d)
		pet stores

9B1.3. RESIDENTIAL USE REQUIRED

The effect is to require at least one level of residential space over a new ground-floor commercial space. The Use Permit required by Sec. 15.1-1 for elimination of dwelling units could, where applicable, set additional conditions. See Appendix A for analysis of the economic feasibility of mixed-use development.

Gross residential floor area on *each site shall equal or exceed 75 percent of commercial area totaling 1,000 square feet or more constructed or converted from a non-residential use.* Residential space shall be devoted to one-family dwellings, two-family dwellings, or multiple dwellings, including apartment houses, flats, and townhouses, and shall be subject to the following yard and open space requirements:

If the maximum permitted additional commercial floor area were constructed, approximately 16 residential units would be required. If existing buildings were replaced, the total could be higher.

Comments

Provides adequate light and air on lots where no side yard is otherwise required.

The intent is to allow neighborhood-serving uses with low rent-paying capability to gain a foothold under "inclusionary regulations" such as some California jurisdictions apply to residential development. The subsidy would result in an overall 5 percent rent reduction in the project for two years and likely would prove beneficial in attracting other tenants and patrons.

Limits total bank and savings and loan space to 140 percent of current occupancy.

- (a) Yards shall be as prescribed in Sec. 9B1.9, provided that a yard adjoining an interior property line shall be 10 feet opposite a required living room window and 5 feet opposite a required window in any other habitable room. Required yards shall extend 6 feet in both directions measured parallel to the window requiring the yard from its centerline and shall extend upward from the window sill. Distances between buildings on the same site shall be as required in the "R-3" district.
- (b) Each dwelling unit shall have usable open space of at least 40 square feet with no dimension less than 6 feet.

9B1.4. AFFORDABLE SPACE FOR HOUSEHOLD REPAIR SERVICES REQUIRED

The owner of new, added, or converted commercial space exceeding 6,000 square feet on a site shall, prior to initial occupancy of the premises, offer during a period of 60 days or more leases of two years or longer for up to 10 percent of the gross floor area for occupancy by businesses having as their principal source of income on-premises repair of shoes, small household appliances, jewelry, bicycles, or clothing alterations at a rent per square foot not exceeding 50 percent of the average base rental obtained or sought for all other rental space on the site. Such leases may contain provisions allowing total rent per square foot to rise to the average for the site after one year if sales volume per square foot equals or exceeds the average for the site.

9B1.5. USE LIMITATIONS

- (a) Wine and beer (on-sale) shall be sold only in eating and drinking establishments that have the sale of food for consumption on the premises as their principal business.
- (b) Gross floor area in the C-1B1 district occupied by banks and savings and loan associations, including accessory offices, shall not exceed 7,600 square feet. The area as of March 1, 1982 is found to be 5,400 square feet. Automated banking machines may operate at any hour and shall not be deemed to occupy floor area, but shall be more than 100 feet from an "R" district, measured along street property lines.

Comments

Limits total eating and drinking space to 150 percent of current occupancy.

Limits offices to 28-foot increase in frontage occupied; does not limit floor area separately from total commercial floor area.

Restaurants, food stands, and food sales for immediate consumption (including portions of establishments devoted to these activities) are combined to simplify regulation.

Current Use Permit condition for restaurants.

Excludes many fast-foods.

Excludes high-volume fast-foods.

(c) Gross floor area in the C-1B1 district occupied by establishments and portions of establishments that provide seating for eating and drinking patrons, including kitchen, storage, restroom, and other accessory space, shall not exceed 18,000 square feet. The area as of March 1, 1982 is determined to be 12,000 square feet.

(d) Total ground-floor street frontage in the C-1B1 district within 20 feet of a street property line occupied by offices other than banks, savings and loans, and travel agencies shall not exceed 100 lineal feet. The frontage as of March 1, 1982 is determined to be 72 feet.

(e) Eating and drinking establishments and establishments selling food prepared shortly prior to sale for immediate or home consumption (carry-out) shall:

(1) Be more than 200 feet from an "R" district, measured along street property lines.

(2) Have no openings other than fixed windows and required fire exits within 50 feet of an "R" district.

(3) Have no live entertainment *that uses electrically amplified musical instruments.*

(4) Not have sale of carry-out food to customers who park on-site as their principal business and not provide service to persons who remain in their cars.

(5) Not sell carry-out food in excess of an amount requiring two servers who complete preparation, package or serve, and receive payment.

Comments

Extension of current Use Permit standard condition.

(6) Use identifiable containers and napkins for all carry-out food and promptly remove any litter resulting. Agree to retain a contract litter cleanup service on a regular basis if the Zoning Officer finds that a litter problem exists.

Prohibits uses that belongs in an "M" district.

(f) A Use Permit for a cleaning and/or dyeing establishment with on-site processing other than pressing shall require, in addition to the findings required by Sec. 20.2, prohibition of processing of items received from or picked up by customers at other locations.

Keeps night activity away from "R" districts.

(g) An entrance to a self-service laundry or dry cleaning establishment shall be more than 200 feet from a "R" district, measured along street property lines.

No change.

(h) No business shall begin operation before 7:00 a.m. or continue beyond 10:00 p.m. unless a Use Permit is secured in each case.

No change.

(i) No use shall be permitted in which more than 25 percent of the floor area is devoted to storage unless a Use Permit is secured in each case.

No change.

(j) All activities and storage must be carried on within a building unless a Use Permit is secured in each case.

*Prohibits drive-up windows.

(k) Goods and services shall not be provided to persons who remain in their cars.*

9B1.6. MAXIMUM COMMERCIAL FLOOR AREA PER SITE AND PER ESTABLISHMENT

Limits total commercial floor area. If all parcels with potential for additional space were developed to the maximum, commercial floor area would increase by 9.5 percent. Currently, 27 percent of developed parcels exceed the standard. See Appendix B for application of standard to existing multi-tenant projects.

(a) The maximum *commercial floor area on a site,* including storage space, outdoor eating or sales area, and circulation area other than landscaped open space accessible to the public and visible from the street, shall not exceed the length of the longest single lot line abutting a street times 80 feet, provided that the total shall not be greater than 80 percent of the area of an interior lot or 100 percent of the area of a corner lot.

Comments

Limits large, potentially high-volume businesses. Currently, 8.4 percent of retail and service businesses exceed the standard.

Intent is to limit multi-tenant developments having small units that may substantially exceed average trip generation per square foot in the district. See Appendix B for application of standard to existing multi-tenant projects.

While the standard theoretically could result in doubling the number of establishments (84 vs. 168), it is unlikely that more than 25 percent of the maximum addition would occur. A 20-foot standard would make more than half of the existing establishments non-conforming.

C-1B limit is 2 stories/35 feet or 3 stories/35 feet where the 3rd story is residential.

C-1B allows 35-foot building with 5-foot rear yard. Revision maintains solar access.

- (b) The maximum gross floor area occupied by a business shall be 2,500 square feet.

9B1.7. MINIMUM FRONTAGE PER ESTABLISHMENT

- (a) The maximum number of retail and service establishments permitted on a site shall equal the longest length of lot frontage on College or on Ashby divided by 15 feet plus the length of any other lot line adjoining a street divided by 30 feet. An additional establishment shall be permitted for a fractional number of .50 or more, but shall not be permitted for a fraction of less than .50.

9B1.8. BUILDING HEIGHT: MINIMUM AND MAXIMUM

- (a) Minimum height shall be 2 stories; maximum height shall be 3 stories not exceeding 28 feet. Any level partially below grade and devoted exclusively to parking shall not be counted as a story.
- (b) A structure shall not exceed the height of a 45-degree plane sloping inward from a point 6 feet above the existing grade of an adjoining lot in an "R" district, measured along the rear lot line of the lot in the "R" district.

Comments

C-1B allows 35-foot building with 5-foot side yard adjoining an "R" district. Revision maintains solar access. See Figure 1, Section 9A1.8.

Similar to C-1B.

Eliminates current choice of 10-foot rear yard as alternative.

Similar to C-1B.

Similar to C-1B.

- (c) A structure shall not exceed the height of a 45-degree plane sloping inward from a point 23 feet above the existing grade of an adjoining lot in an "R" district, measured along the side line of the lot in the "R" district adjoining the side yard of the site of the structure.

9B1.9. YARDS REQUIRED

No yard shall be required except the following:

- (a) Where the side of a lot abuts an "R" district, the minimum side yard shall be 5 feet.
- (b) Where the rear of a lot abuts an "R" district, the minimum rear yard shall be 5 feet.
- (c) Where the street frontage of a lot is adjacent to an "R" district, the minimum front yard depth or side yard width of the street side adjacent to the "R" district shall be the same as is required for such "R" district.
- (d) Where a lot has frontage on two streets and both frontages are adjacent to "R" districts, the minimum front yard depth and side yard width on the street side adjacent to the "R" district shall be the same as required for the "R" district.
- (e) The yards specified above may be reduced where it is determined by the Design Review Committee that a lesser required yard would provide greater privacy or improved amenity to property in the "R" district.

9B1.10. SPECIAL CONTROLS ON SITE DEVELOPMENT, BUILDING ORIENTATION, AND EXTERNAL EFFECTS

The following special requirements shall apply to retail, service, or office space on properties with the same street frontage as and abutting an "R" district or facing directly across the street from an "R" district, unless the Design Review Committee waives such requirements.

- (a) Display windows and customer entrances other than required exits shall not face a contiguous "R" district.

Comments

Similar to C-1B.

Stronger screening requirement than C-1B.

Similar to C-1B.

Allows additional space and views for residential space, consistent with existing buildings. Proposal is consistent with the Uniform Building Code.

Helps maintain small scale; avoids two-dimensional facades that frequently are dull.

Prevents possible premature demolition; alerts surrounding area to impending change. *Applications for new structures or for rehabilitation or conversion will require notice under Design Review provisions.*

- (b) Exterior lighting shall be shielded so as to avoid direct glare in an adjacent "R" district.
- (c) An adjoining lot in an "R" district shall be screened by a solid wall or fence 6 feet high measured from existing grade at the property line in the "R" district, provided that a higher or lower wall or fence may be required by the Design Review Committee.
- (d) Mechanical and electrical equipment shall be shielded so that noise levels from such equipment will not exceed 45 decibels (A scale) measured at the property line. Exhaust ducts shall be located or directed away from an abutting "R" district.

9B1.11. ENCROACHMENT

Bay windows and balconies 11 feet or more above sidewalk grade may extend 3 feet into a street right-of-way, provided that not more than 60 percent of the length of a building elevation shall extend beyond the property line.

9B1.12. AREA OF WALL PLANE

A wall plane parallel or nearly parallel to a street property line shall not contain a rectangle having both length and width greater than 16 feet. The minimum required offset shall be 3 feet perpendicular to the street property line and shall contain an area parallel or nearly parallel to the street having no dimension less than 6 feet. The Design Review Committee may vary this requirement in a manner consistent with the objective of requiring modulated facades in harmonious scale with buildings in the vicinity.

9B1.13. DEMOLITION

A demolition permit for a main structure shall be issued only following issuance of a building permit for improvements that require the demolition, provided that a demolition permit may be issued at any time when required for reasons of public health or safety.

Comments

No parking required by C-1B. Proposed ratio is based on assumption that 5 spaces per 1,000 square feet would be needed if all patrons arrived by car. The patron survey found 66 percent using other modes. Design Review Committee decision would be based on feasibility of curb cuts without excessive disruption of pedestrian traffic.

*The patron survey found bicycle trips equaled 30 percent of car driver trips.

The intent is not to require that all signs be tasteful; but to exclude large, garish signs.

9B1.14. PARKING

- (a) Off-street *automobile* parking at a ratio of 1.75 spaces per 1,000 square feet gross commercial floor area new or converted, plus 1 space per new or converted dwelling unit shall be located on each site, provided that if the Design Review Committee finds it infeasible or inconsistent with Design Review policies to provide the parking, it may require a location other than the site of the use or may waive the requirement for a project adding or converting less than 6,000 square feet of commercial floor area or adding residential floor area.
- (b) The number of existing parking spaces on a site shall not be reduced.
- (c) Each establishment shall provide one bicycle space or 30 percent of the required automobile spaces, whichever is greater. All required bicycle parking shall be on the site of the establishment and shall have provision for locking, provided that two spaces per establishment may be within a public right-of-way but shall not reduce pedestrian traveled way by more than 18 inches.*

9A1.15. DESIGN REVIEW REQUIRED

All new structures including site improvements and landscape plans; all exterior building alterations visible from a public street; all changes in exterior materials, finishes, or colors; and all exterior signs or signs visible from the exterior and within 3 feet of a window shall be subject to Design Review as prescribed in Chapter 20A, provided that the following shall not be subject to Design Review: non-illuminated signs not exceeding a total of .5 square foot per lineal foot of building frontage *projected to a street property line;* real estate and development signs; and changes of copy on a sign.

**REVISIONS TO ADMINISTRATIVE PROVISIONS OF ZONING ORDINANCE
REQUIRED BY BOTH PROPOSED ZONING DISTRICTS**

Comments

***INSERTION OF CHAPTER 18A: NEIGHBORHOOD REVIEW**

18A.1. PURPOSES

- (a) To foster neighborhood participation in zoning decision in accord with Policy 7.20 of the General Plan.
- (b) To provide developers with an opportunity to understand and take account of neighborhood concerns prior to public hearings on development proposals.

18A.2. NEIGHBORHOOD REVIEW REQUIRED

Not all areas may have a designated neighborhood organization initially. Boundaries could change as more neighborhood organizations are recognized.

Development proposals requiring zoning ordinance amendment, Use Permit, Variance, or Design Review approval shall be submitted to Neighborhood Review where the City Council has, by resolution, found that there exists a single neighborhood organization interested in such matters that represents a defined geographic area and is open to participation by all residential and non-residential tenants and property owners residing, working, or owning property within the defined area.

Comments

Neighborhood organizations may wish to have an information sheet distributed to applicants listing persons to contact, meeting dates, etc.

Most applicants will wish to make themselves available to the neighborhood organization whether or not they expect to reach agreement. However, they would have the right to go directly to the body with approval power.

Allows 30-day review period, but does not require this much time if agreement can be reached quickly.

One review period covers all actions required to approve project.

18A.3. PROCEDURE

Upon initial contact, the Zoning Officer shall inform a potential applicant of the Neighborhood Review process and upon receipt of an application requiring Neighborhood Review, the Zoning Officer shall notify the neighborhood organization. The neighborhood organization or the applicant may request a meeting to review the proposal, but failure of either the applicant or the neighborhood organization to supply information or to request or attend such a meeting shall not limit actions by the Planning Commission, the Board of Adjustment, or the Design Review Committee.

Prior to taking any action on a proposal subject to Neighborhood Review, the body holding the hearing shall invite representatives of the neighborhood organization and the applicant to report on the results of their communication or review. The Commission, Board, or Review Committee shall consider any recommendations received from the neighborhood organization prior to taking action on the proposal.

18A.4. NOTICE

Upon the filing of an application requiring Neighborhood Review, the Zoning Officer shall within 5 days notify the neighborhood organization, requesting response within 30 days of the date of the notice. Notice as required elsewhere in this ordinance also shall be given, provided that no hearing on an application requiring Neighborhood Review shall be held until a response has been received from the neighborhood organization or until after expiration of the 30-day period, whichever occurs first. When an application requires action by an entity other than the Design Review Committee, the required period for neighborhood organization response shall precede the first hearing, but shall not be repeated prior to subsequent actions by other bodies on applications relating to the same project.*

AMENDMENTS TO CHAPTER 20: USE PERMITS

Comments

20.1. ISSUANCE

The following Use Permits may be issued by the Zoning Officer and no public hearing shall be required:

C-1A1 and C-1B1 districts:

Authorizes fewer decisions by Zoning Officer than in C-1, C-1A, and C-1B districts.

Cleaning or dyeing with on-site processing; hours of operation between 10 p.m. and 7 a.m.; more than 25 percent of floor are devoted to storage; activities not within a building.

INSERTION OF CHAPTER 20A: DESIGN REVIEW

20A.0. DESIGN REVIEW COMMITTEE ESTABLISHED

The intent of the prescribed membership is to balance different professional and lay views. A short term is offered as an inducement to recruitment of professionals; reappointments could be made.

Some or all of the duties of the Design Review Committee could be assigned to the Board of Adjustments, but we believe this would overload the Board and might lead to confusion of use issues and design issues.

A Design Review Committee is hereby created, which shall consist of 5 members, the majority of whom shall be design, building, or real estate professionals, including architects, landscape architects, engineers, contractors, real estate brokers, and urban planners. Appointments to the Committee shall be made by Council members for terms of one year. The Committee shall elect a Chairperson and a Vice Chairperson, shall adopt rules of procedure, and shall keep minutes of its proceedings. A majority of the members shall constitute a quorum and shall approve or deny approval of plans as required by Section 20A.4.

20A.1. DESIGN REVIEW REQUIRED

Development subject to Design Review shall be as prescribed in the district regulations.

20A.2. APPLICATION AND FEE; USE PERMIT OR VARIANCE TO BE SECURED PRIOR TO DESIGN REVIEW

Fee should cover cost including staff time.

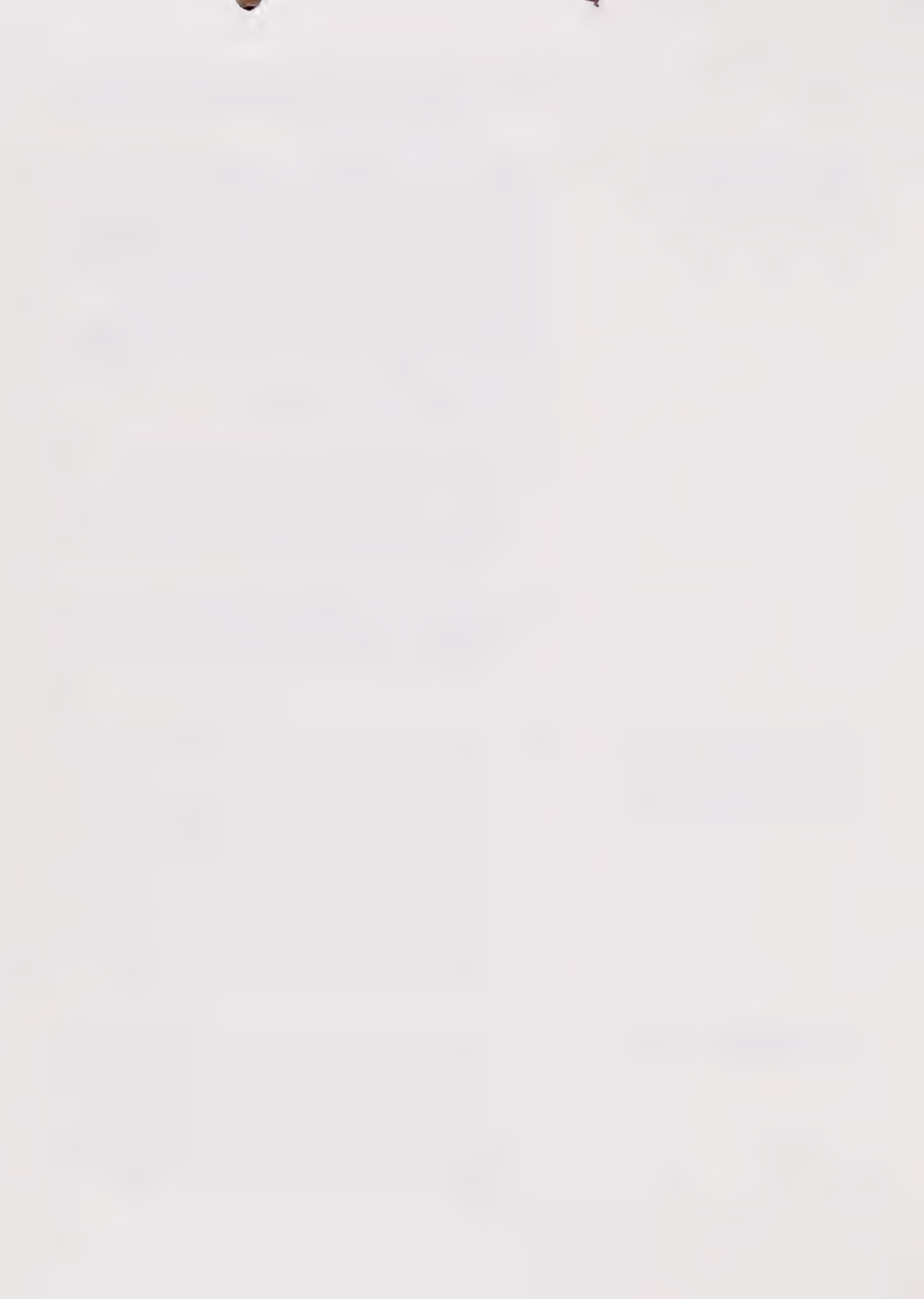
Application for Design Review shall be made to the Comprehensive Planning Department on a form provided by the Department and shall contain such information as may be required by the Department. If the use for which an application is made requires a Use Permit or Variance, the Use Permit or Variance shall be secured prior to filing the application for Design Review. Such application shall be accompanied by fees as set by resolution of the City Council.

20A.3. NOTICE AND HEARING

- (a) Upon the filing with the Design Review Committee of an application for Design Review, the Zoning Officer within 5 days shall set the matter for public hearing and such hearing shall be held within 30 days from the filing of such application.
- (b) Notice of the public hearing shall be given by posting notice on or adjacent to the property involved not less than 10 days prior to the date of the hearing.
- (c) In addition to the posting of notice, a postcard notice of the hearing shall be mailed not less than 10 days prior to the date of a hearing to each property owner within 100 feet on the same street or streets, including the abutting properties to the rear. The Design Review Committee may extend the area of notice when it is deemed appropriate. Postcard notice shall also be mailed to any person who has filed a written request with the Zoning Officer for all such notices and has paid a fee for this service as set by resolution of the City Council.
- (d) Each hearing shall be open to the public and both proponents and opponents shall be heard. Testimony shall be limited to matters relevant to the design of the project and the findings required by Sec. 20A.4 and shall not include statements regarding the compatibility of the proposed use with the purposes of the district. Any hearing may be continued from time to time.

Individuals who wish to be informed of all proposals can buy an annual subscription to the notice service.

Design, not use, is the purview of the Committee.



Comments

The finding statements are intended to focus discussion to the extent feasible. Design excellence is not to be required and no attempt should be made to agree on what it is.

When a project is not approved, the applicant is entitled to know what changes are desired. The intent of this section is that plans be revised and review continued, if necessary, so that appeals are held to a minimum.

20A.4. FINDINGS AND DECISION

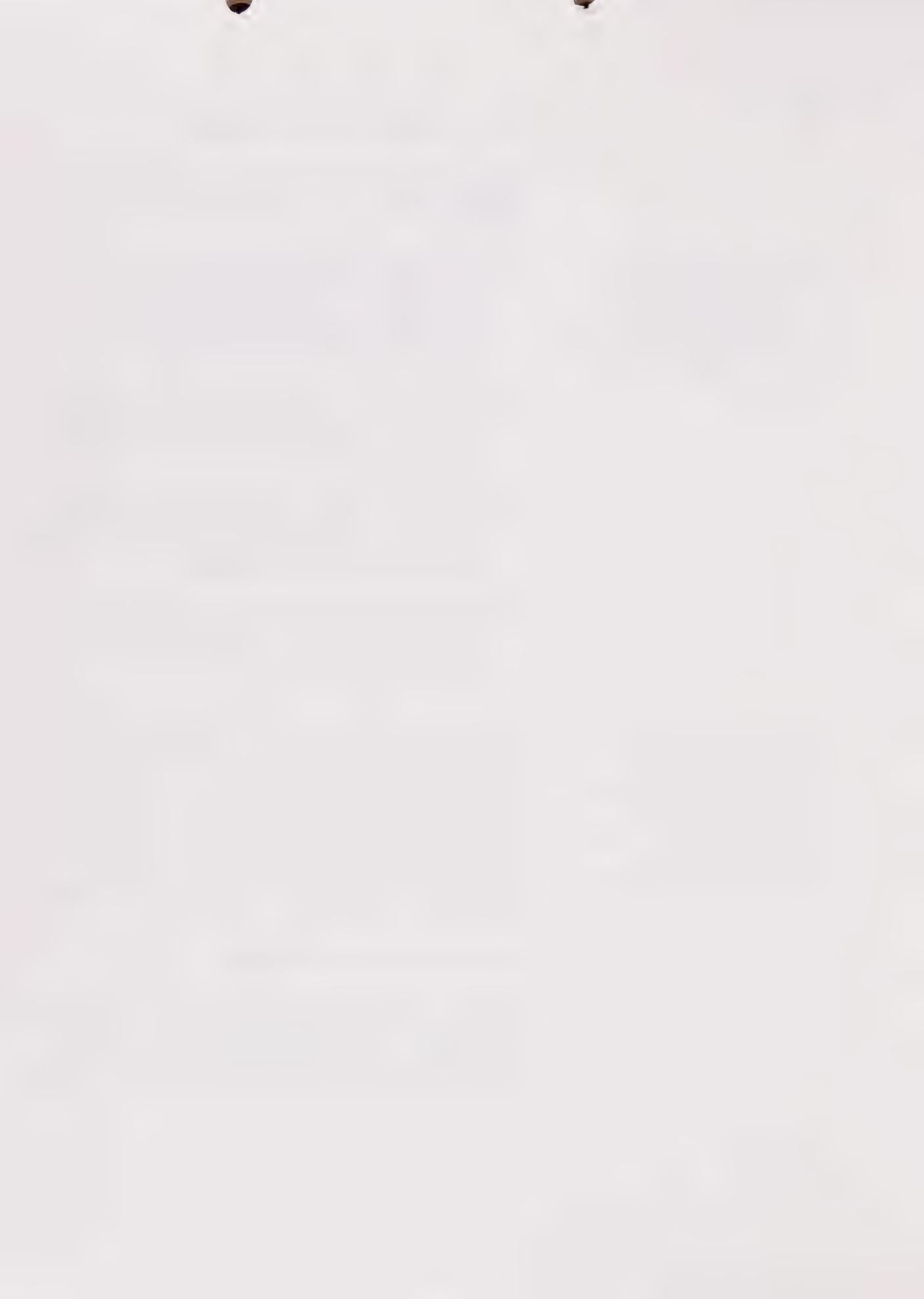
The Committee shall approve the plans with or without conditions if it makes the following findings:

- (a) That the design will be compatible with an atmosphere of quality and architectural restraint by avoiding forms, materials, and colors that would attract disproportionate attention to the proposed structure.
- (b) That the design in commercial districts will be interesting for pedestrians and will preserve, and where possible enhance, the continuity of key shopping frontages.
- (c) That the design will harmonize with existing structures nearby and, in the case of remodeled space, that the architectural integrity of existing structures will be respected.
- (d) That signs will be harmonious with the architectural design of the building and adjacent buildings and will not detract from desirable architectural features.

If the findings are not made, Committee members shall indicate the nature of changes in the plans that would be necessary to enable the findings to be made and shall advise the applicant of the appeals procedure. If approval is denied or the conditions of approval are unacceptable to the applicant, the applicant may appeal the decision, in accordance with the provisions of Section 20A.6, or may request that the hearing be continued or reopened to consider revised plans.

20A.5. NOTICE OF DECISION

Within 7 days after the conclusion of the hearing, the Design Review Committee shall mail notice of its decision to all persons who have individually submitted written or oral testimony on the application.



Comments

Similar to Section 19.13
(Variances and Adjust-
ments).

20A.6. APPEAL TO THE CITY COUNCIL

- (a) An appeal may be taken to the City Council by the applicant or by any person aggrieved by the determination of the Design Review Committee by filing a written Notice of Appeal with the City Clerk and payment of a fee as set by resolution of the City Council within 7 days after the mailing of notice of the decision of the Design Review Committee. The Notice of Appeal shall clearly and concisely set forth the grounds upon which the appeal is based. If the appeal is taken by the applicant, the City Clerk shall immediately forward one copy to the Design Review Committee. If the appeal is taken by someone other than the applicant, the City Clerk shall immediately forward one copy to the applicant and one copy to the Design Review Committee. Within 10 days after the filing of a Notice of Appeal, the Zoning Officer shall transmit to the City Council a copy of the application, a copy of the Notice of Appeal, and a written statement setting forth the reasons for the Committee's decision, and shall make available to the Council, at the time the matter is considered by the Council, all other papers constituting the record upon which the action appealed from was taken.
- (b) The City Council shall review the appeal of an action of the Design Review Committee and may do any one of the following:
 - (1) If the City Council believes that the Design Review Committee should reconsider the decision which has been appealed, the Council may refer the matter back to the Committee.
 - (2) In cases of such referral, the Design Review Committee shall hold a new properly noticed public hearing on the matter and make a decision which may be appealed to the City Council in the normal manner, unless otherwise directed by the City Council.

Comments

- (3) The City Council referral shall specify those issues raised by the application or appeal which the Design Review Committee is directed to investigate and reconsider.
- (4) If 60 days pass from the date that the Council referred the matter back to the Committee and the Committee has made no subsequent decision, then the original Design Review Committee decision and the original appeal of that decision shall both be placed back on the City Council agenda in the same manner as a new decision and appeal.
- (5) If the facts stated in or ascertainable from the application, the Notice of Appeal, the written statement of the Design Review Committee setting forth the reasons for its decisions, and the other papers, if any, constituting the record do not, in the opinion of the City Council, warrant further hearing, the City Council may affirm the decision of the Committee and dismiss the appeal.
- (6) If, in the opinion of the City Council, said facts warrant further hearing, the City Council shall set the matter for hearing and shall give notice of the time and place in the same manner as is provided for giving notice of the time and place for hearing before the Design Review Committee. The City Council may reverse or affirm wholly or partly, or modify, any decision, determination, or requirement of the Committee, and may make decisions or determinations or may impose such conditions as the facts warrant including such conditions as will promote the municipal health, welfare, and safety and benefit the city as a whole.

The public hearing shall commence no later than 60 days from the date when the vote for a hearing is taken, unless, on the request of the applicant and the appellant, the City Council establishes a later date for the hearing.

Comments

If the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the City Council, then the decision of the Design Review Committee shall be deemed affirmed and the appeal deemed denied.

- (c) If none of the three actions in Section 20A.6(b) has been taken by the City Council within 30 days from the date the appeal first appears on the City Council agenda, then the decision of the Design Review Committee shall be deemed affirmed and the appeal shall be deemed denied.

AMENDMENT TO CHAPTER 22: DEFINITIONS

Section 22.18-2. CONVERSION

Occupancy of a structure that last was occupied for a period of one year or more by a manufacturing, automotive service, storage, or residential use by a retail, office, or service use, or expansion of the floor area on a site occupied or to be occupied by retail, office, or service uses by more than 50 percent, *or increase in the number of commercial establishments on a site by more than 50 percent.*

NEIGHBORHOOD PREFERENTIAL PARKING PROGRAMS

Curb parking in residential areas is used by commuters and by employees in the business districts, as well as by residents. If preferential parking programs, such as the one in the Bateman neighborhood, were in force, parking opportunities for business patrons would be enhanced. If Berkeley views the Bateman neighborhood experiment as a success, its spread to other neighborhoods will depend on whether residents perceive the problem as severe enough to accept the cost and the inconvenience to their guests. Since businesses are both a cause of the parking problem and a beneficiary of limits on all-day parking, it may be appropriate to devise a means for businesses and residents to share net administration and enforcement costs.

HISTORIC PRESERVATION DISTRICT: ELMWOOD

The whole of Elmwood far exceeds the sum of the parts, so its preservation as a historic landmark and outstanding example of a small-scale, transit-oriented business district is warranted. *Designation as a National Register District could slow or prevent demolition approval, depending on the implementing ordinance and the strength of political support for preservation. The proposed zoning regulations would reduce the potential for more intensive development, so the incentive for demolition would be reduced.

The Tax Act of 1981 allows a 20 percent investment tax credit for rehabilitation of a 40-year-old building and a 25 percent investment tax credit for rehabilitation of a certified historic structure. National Register designation would offer owners who intend to retain their buildings more favorable tax treatment as well as assurance that the character of the district will be retained.*



APPENDIX A
FEASIBILITY OF CONSTRUCTING RESIDENTIAL
UNITS OVER COMMERCIAL SPACE; PRO FORMA
FOR N.E. CORNER OF VIRGINIA AND SHATTUCK

This model is intended to test the financial feasibility of requiring that residential space is equal to at least 75 percent of new commercial space built in the North Shattuck business district. The finding is that after sale of residential units, the project would show an initial cash-on-cash profit of 18 to 25 percent on the cost of the remaining commercial space. The cost assumptions used are similar to those applied by national developers to analyze multi-family housing and commercial projects in the Bay Area. This rate of return should be sufficient to attract investment capital for a mixed-use project.

An all commercial project, if permitted subject to the same floor area limitation, would require half the investment, but would show a return about 15 percent lower than the commercial-residential project.

COST

	<u>Commercial- Residential Project</u>	<u>Commercial Only Project</u>
1. <u>Site:</u>		
19,650 sq.ft. @ \$30/sq.ft.	\$590,000	\$590,000
2. <u>Building and Parking:</u>		
Maximum 1 level subterranean parking @ 300 sq.ft./car and \$30/sq. ft. (\$5/sq.ft. surface parking)	\$590,000 65 cars, subterranean	\$59,000 39 cars, surface
Maximum commercial floor area under proposed regulations @ 195' frontage x 80' = 15,600 sq.ft.	1 level - \$967,000	2 levels - \$967,000 ^a
Parking required for commercial @ 2.5 spaces/1,000 sq.ft. = 39 Remaining parking available for residential (65 - 39 = 26)		
26 units @ 800 gross sq.ft./unit = 20,800 (2 levels res.) @ \$45/sq.ft. hard cost + \$15,000/unit sq.ft. soft cost ^b = \$51,000/unit x 26	\$1,326,000	
TOTAL	\$3,473,000	\$1,616,000

	<u>Commercial- Residential Project</u>	<u>Commercial Only Project</u>
3. <u>Rate of Return Analysis:</u>		
Total Project Cost	\$3,473,000	\$1,616,000
Income:		
Condo Sales @ \$100/sq.ft. net ^c + parking space (\$80,000/unit) 20,800 x \$100	\$2,080,000	
Remaining cost to be borne by commercial space	\$1,393,000	
Commercial lease @ \$2/sq.ft. including parking less \$2/yr./sq.ft. operating and management costs and taxes = \$22 x 15,6000 sq.ft.	\$343,000	\$343,000
Cash-on-cash return	25% ^c	21%
@ \$1.50/sq.ft. \$16 x 15,600	\$250,000	\$250,000
Cash-on-cash return	18% ^c	15%

^aAssuming a 15,600-square-foot limitation on commercial floor area and no residential development, two levels would allow space for 39 surface parking spaces.

^bIncludes sales commissions and management fee for developer.

^cIf the condos could be sold at \$110/sq.ft. (\$88,000), the remaining cost to be borne by commercial space would drop to \$1,185,000 and the return on this amount would increase to 29% or 21% using the same rental rates.

**APPENDIX B
HYPOTHETICAL APPLICATION OF PROPOSED
REGULATIONS TO EXISTING MULTI-TENANT PROJECTS**

	<u>Site Area (Sq. Ft.)</u>	<u>Existing Gross Floor Area (Sq. Ft.)</u>	<u>Permitted Commercial Gross Floor Area (Sq. Ft.)</u>	<u>Required Residential Floor Area (Sq. Ft.)</u>	<u>Total Floor Area^a</u>	<u>Permitted Retail and Service Establishments</u>	<u>Required Residential Units Assuming 600 Sq. Ft./Unit</u>
North Berkeley Centre	23,000	25,000	11,200	8,400	19,600	14	14
Walnut Square	17,000	22,000	12,800	9,600	22,400	15	16
Shattuck Commons	9,300	19,000	9,300	6,975	16,275	15	12
Berkeley Repertory Site	7,155	10,200	4,000	3,000	7,000	3	5

^aTotal of maximum commercial area plus resulting required residential area.
Additional residential area consistent with yard and height requirements could be built.

APPENDIX C
NORTH SHATTUCK AND ELMWOOD BUSINESS DISTRICTS:
MAXIMUM POTENTIAL FLOOR AREA UNDER PROPOSED REGULATIONS

	Total Area of all Parcels in District (Square Feet)		Existing Gross Commercial Floor Area (Square Feet)		Total Frontage in District ^b (Linear Feet)		Potential Gross Commercial Floor Area (Frontage Times 80 Feet) (Square Feet)	
	<u>Including Markets^a & Parking Lots</u>	<u>Excluding Markets^a & Parking Lots</u>	<u>Including Markets But Not Parking Lots</u>	<u>Excluding Markets & Parking Lots</u>	<u>Including Markets & Parking Lots</u>	<u>Excluding Markets & Parking Lots</u>	<u>Including Markets But Not Parking Lots</u>	<u>Excluding Markets & Parking Lots</u>
North Shattuck	595,525	403,150	384,360	296,910	5,415	4,210	485,500	398,050
Elmwood	228,530	185,530	170,650	163,450	2,307	2,025	186,950	179,750

NOTE: Measurements were taken from Sanborn Insurance Atlas Maps and have not been verified in the field.

^aMarkets are Co-op, Safeway, and Lucky in North Shattuck; 7-11 in Elmwood.

^bIncludes only the longest frontage of corner lots.

	<u>North Shattuck</u>	<u>Elmwood</u>
Number of Parcels Having Ground-Floor Area Exceeding The Proposed Maximum (Frontage Times 80 Feet)	13 or 28.3%	8 or 26.6%



APPENDIX D
NORTH SHATTUCK PATRON SURVEY
LOCATIONS AND INTERVIEW TIMES

In response to questions by readers of Working Paper #2, the following additional data on the North Shattuck Patron Intercept Survey, conducted by two University of California students, is presented. Survey results were tabulated in Working Paper #2.

Weekday interviews were conducted between 12:00 noon and 6:00 p.m.; Saturday interviews were conducted between 10:00 a.m. and 5:00 p.m. During all interview periods, the weather was either sunny or mildly overcast.

At each location, interviewers approached patrons of different ages, both sexes, and varying apparent life-styles, in order to obtain a random sample of shoppers. Among the persons interviewed, 45 percent were male and 55 percent were female; 17 percent were under the age of 25, 62 percent were between the ages of 25 and 50, and 215 were over the age of 50.

Table D1 shows a breakdown of all interviews by location and time.

TABLE D1
LOCATION AND TIME OF NORTH SHATTUCK PATRON INTERVIEWS

<u>Location</u>	<u>Saturday Interview Time</u>	<u>Saturday Number of Interviews</u>	<u>Weekday Interview Time</u>	<u>Weekday Number of Interviews</u>	<u>Percent of all Interviews</u>
Shattuck Ave. and Vine St.	March 6, 11 a.m. to 12:00 noon and 3:00 to 4:00 p.m.	12	March 9, 2:00 to 3:00 p.m.	8	8
Shattuck Ave. and Virginia St.	March 6, 1:00 to 2:00 p.m.; March 13, 11 a.m. to 12:00 noon	16	March 8, 2:00 to 3:30 p.m.	12	11
Shattuck Ave. and Delaware St.	March 6, 10:00 to 11:00 a.m.	9	March 5, 3:00 to 4:00 p.m.	4	5
Shattuck Ave. and Rose St.	March 6, 3:00 to 4:00 p.m.	4	March 5, 4:00 to 5:00 p.m.	6	4
Shattuck Ave. and Cedar St.	March 13, 10:00 a.m. to 12:00 noon	12	March 8, 4:00 to 5:30 p.m.	10	9
Walnut St. and Vine St. (on corner and inside the square)	March 6, 10:00 a.m. to 12:00 noon	19	March 12, 2:30 to 4:30 p.m.	22	17
Co-op Entrance	March 6, 1:00 to 3:00 p.m.	26	March 15, 2:00 to 4:00 p.m.	21	19
Lucky Entrance	March 13, 1:00 to 3:00 p.m.	18	March 19, 2:00 to 4:00 p.m.	16	14
Safeway Entrance	March 13, 11:00 to 1:00 p.m.	18	March 22, 1:30 to 3:00 p.m.	15	13
TOTAL		134		114	100



APPENDIX E

TRAFFIC SERVICE LEVELS AT MAJOR SIGNALIZED INTERSECTIONS

Traffic counts were conducted at one signalized intersection in each business district during the assumed weekday peak hour. Load factors, defined as the ratio of the number of green signal phases fully loaded during one hour to the number of green signal phases available, were determined. Approximate relationships between load factors and service levels are shown by the following table.

TABLE E1
RELATIONSHIP OF LOAD FACTOR TO LEVEL OF SERVICE^a

<u>Level of Service</u>	<u>Description</u>	<u>Load Factor</u>
A	Free Flow	≤ 0.0
B	Stable Flow	≤ 0.1
C	Stable Flow	≤ 0.3
D	Approaching Unstable Flow	≤ 0.7
E	Unstable Flow	$\leq 1.0^*$
F	Forced Flow	—

*Usually ≥ 0.85 in the absence of an exceptionally effective signal progression.

^aSource: Institute of Traffic Engineers. Transportation and Traffic Engineering Handbook: Prentice Hall, 1976.

By these measures, the Shattuck and Cedar intersection and the College and Ashby intersection are operating at Level E (unstable flow). During some portions of the hour on some approaches to both intersections, all green phases were loaded for certain movements, meaning that all drivers had to wait for more than one cycle to clear the intersection.

North Shattuck: Shattuck-Cedar

Traffic counts were made at the Shattuck and Cedar intersection on Monday, May 10, 1982, between 4:30 and 5:30 p.m. The weather was slightly overcast. Table E2 summarizes traffic counts by street and direction, Table E3 shows traffic volume by time periods for the intersection, and Table E4 shows load factors.

TABLE E2
TRAFFIC VOLUME BY APPROACH AND DIRECTION

	<u>Straight</u>	<u>Right Turn</u>	<u>Left Turn</u>	<u>Total</u>
North on Shattuck				
4:40-4:55	185	21	31	237
4:56-5:10	186	15	29	230
5:11-5:25	282	21	41	344
5:26-5:40	240	27	36	303
West on Cedar				
4:40-4:55	62	25	12	99
4:56-5:10	64	25	20	109
5:11-5:25	88	24	18	130
5:26-5:40	60	25	14	99
South on Shattuck				
4:40-4:55	117	14	32	163
4:56-5:10	124	10	18	152
5:11-5:25	106	12	23	141
5:26-5:40	91	6	17	114
East on Cedar				
4:40-4:55	46	12	29	87
4:56-5:10	52	11	24	87
5:11-5:25	58	15	22	95
5:26-5:40	55	15	17	87

TABLE E3
TRAFFIC VOLUME BY TIME PERIOD

<u>Minutes</u>	<u>South on Shattuck</u>	<u>East on Cedar</u>	<u>North on Shattuck</u>	<u>West on Cedar</u>	<u>Total</u>
1-15	163	87	237	99	586
16-30	152	87	230	109	578
31-45	141	95	344	130	710
46-60	<u>114</u>	<u>87</u>	<u>303</u>	<u>99</u>	<u>603</u>
Total	570	356	1,114	437	2,477



TABLE E4
LOAD FACTOR, SHATTUCK AND CEDAR PEAK HOUR

<u>Location</u>	<u>Fully Utilized Green Phases/Available Green Phases</u>			
	<u>Straight Lanes</u>	<u>Ratio</u>	<u>Left Turn Lanes</u>	<u>Ratio</u>
East on Cedar	34/51	.67	—	—
West on Cedar	29/51	.57	—	—
North on Shattuck	42/51	.82	46/51	.90
South on Shattuck	37/51	.72	44/51	.86

Average of two highest conflicting movements - northbound vs. southbound left turn: 84.

Elmwood: College-Ashby

Traffic counts were made at the College and Ashby intersection on Monday, May 3, 1982, between 4:40 and 5:40 p.m. The weather was sunny and mild. Table E5 summarizes traffic counts by street and direction, Table E6 shows traffic volume by time periods for the intersection, and Table E7 shows load factors.

TABLE E5
TRAFFIC VOLUME BY APPROACH AND DIRECTION

<u>Location</u>	<u>Straight</u>	<u>Right Turn</u>	<u>Left Turn</u>	<u>Total</u>
North on College				
4:40-4:55	74	13	17	104
4:56-5:10	90	12	30	132
5:11-5:25	88	16	28	132
5:26-5:40	78	10	10	98
West on Ashby				
4:40-4:55	90	26	3	119
4:56-5:10	104	20	6	130
5:11-5:25	124	27	2	153
5:26-5:40	86	20	1	107
South on College				
4:40-4:55	90	21	32	143
4:56-5:10	95	16	49	160
5:11-5:25	97	15	28	140
5:26-5:40	103	15	40	158
East on Ashby				
4:40-4:55	144	16	1	161
4:56-5:10	128	18	0	146
5:11-5:25	159	20	3	182
5:26-5:40	154	24	0	178

TABLE E6
TRAFFIC VOLUME BY TIME PERIOD

<u>Minutes</u>	<u>South on College</u>	<u>East on Ashby</u>	<u>North on College</u>	<u>West on Ashby</u>	<u>Total</u>
1-15	143	161	104	119	527
16-30	160	146	132	130	568
31-45	140	182	132	153	607
45-60	<u>158</u>	<u>178</u>	<u>98</u>	<u>107</u>	<u>541</u>
Total	601	667	466	509	2,243

TABLE E7
LOAD FACTOR, COLLEGE AND ASHBY PEAK HOUR

<u>Location</u>	<u>Fully Utilized Green Phases/ Available Green Phases</u>	<u>Ratio</u>
East on Ashby	38/48	.79
West on Ashby	30/48	.63
North on College	28/48	.58
South on College	39/48	.81

Average of two highest conflicting movements - southbound vs.,
eastbound: .80.

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